

Introduced by Senator FlorezJanuary 17, 2007

An act to add and repeal Sections 6377, 6377.5, 17052.3, and 23643 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 74, as introduced, Florez. Sales and use tax: exemptions: equipment: fuel: income and corporation taxes: credits: biodiesel.

(1) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property and provides various exemptions from the taxes imposed by that law.

This bill would exempt from those taxes, from January 1, 2008, through January 1, 2013, the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property purchased for use by a qualified person in the manufacturing, processing, or production of biodiesel fuel, as defined. This bill would also exempt from those taxes, from January 1, 2008, through January 1, 2013, the gross receipts from the sale of, and the storage, use, or other consumption of, biodiesel fuel, as defined.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit for taxable years beginning on or after January 1, 2008, and ending on or before January 1, 2013, in an amount equal to ___% of the qualified costs paid or incurred with respect to the manufacturing, production, delivery, or sale of biodiesel fuel, as defined.

(3) This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6377 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6377. (a) There are exempted from the taxes imposed by this
- 4 part the gross receipts from the sale of, and the storage, use, or
- 5 other consumption in this state of, by a qualified person any of the
- 6 following:
- 7 (1) Tangible personal property directly used or consumed in or
- 8 during the actual manufacturing, processing, or production of
- 9 biodiesel fuel.
- 10 (2) Tangible personal property used or consumed in
- 11 manufacturing, processing, or production of biodiesel fuel if the
- 12 use or consumption of the property is necessary and essential to
- 13 comply with federal, state, or local laws, or rules and regulations
- 14 that establish requirements related to public health.
- 15 (b) For purposes of this section all of the following apply:
- 16 (1) "Biodiesel fuel" means any motor fuel or mixture of motor
- 17 fuels that is:
- 18 (A) Derived wholly or partly from agricultural products,
- 19 vegetable oils, recycled greases, or animal fats, or the wastes of
- 20 those products or fats.
- 21 (B) Graded B20 or higher.
- 22 (C) Advertised, offered for sale, suitable for use, or used as a
- 23 motor fuel in an internal combustion engine.

1 (2) “Qualified person” means a person manufacturing,
2 processing, or producing biodiesel fuel.

3 (c) No exemption shall be allowed under this section unless the
4 purchaser furnishes the retailer with an exemption certificate,
5 completed in accordance with any instructions or regulations as
6 the board may prescribe, and the retailer subsequently furnishes
7 the board with a copy of the exemption certificate. The exemption
8 certificate shall contain the sales price of the machinery or
9 equipment that is exempt pursuant to subdivision (a).

10 (d) Notwithstanding any provision of the Bradley-Burns
11 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
12 with Section 7200)) or the Transactions and Use Tax Law (Part
13 1.6 (commencing with Section 7251)), the exemption established
14 by this section shall apply with respect to any tax levied by a
15 county, city, or district pursuant to, or in accordance with, either
16 of those laws, unless the local government that would otherwise
17 receive the sales tax votes for the exception not to apply.

18 (e) Notwithstanding subdivision (a), the exemption established
19 by this section shall not apply with respect to any tax levied
20 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35
21 of Article XIII of the California Constitution.

22 (f) This section shall remain in effect only from January 1, 2008,
23 through January 1, 2013, and as of that date is repealed, unless a
24 later enacted statute, that is enacted before January 1, 2013, deletes
25 or extends that date.

26 SEC. 2. Section 6377.5 is added to the Revenue and Taxation
27 Code, to read:

28 6377.5. (a) There are exempted from the taxes imposed by
29 this part, the gross receipts from the sale in this state of, and the
30 storage, use, or other consumption in this state of, biodiesel fuel.

31 (b) For purposes of this section, “biodiesel fuel” means any
32 motor fuel or mixture of motor fuels that is:

33 (1) Derived wholly or partly from agricultural products,
34 vegetable oils, recycled greases, or animal fats, or the wastes of
35 those products or fats.

36 (2) Graded B20 or higher.

37 (3) Advertised, offered for sale, suitable for use, or used as a
38 motor fuel in an internal combustion engine.

39 (c) Notwithstanding any provision of the Bradley-Burns Uniform
40 Local Sales and Use Tax Law (Part 1.5 (commencing with Section

1 7200)) or the Transactions and Use Tax Law (Part 1.6
2 (commencing with Section 7251)), the exemption established by
3 this section shall apply with respect to any tax levied by a county,
4 city, or district pursuant to, or in accordance with, either of those
5 laws, unless the local government that would otherwise receive
6 the sales tax votes for the exception not to apply.

7 (d) Notwithstanding subdivision (a), the exemption established
8 by this section shall not apply with respect to any tax levied
9 pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35
10 of Article XIII of the California Constitution.

11 (e) This section shall remain in effect only from January 1, 2008,
12 through January 1, 2013, and as of that date is repealed, unless a
13 later enacted statute, that is enacted before January 1, 2013, deletes
14 or extends that date.

15 SEC. 3. Section 17052.3 is added to the Revenue and Taxation
16 Code, to read:

17 17052.3. (a) For each taxable year beginning on or after
18 January 1, 2008, and before January 1, 2013, there shall be allowed
19 as a credit against the “net tax,” as defined in Section 17039, an
20 amount equal to __ percent of the qualified costs that are paid or
21 incurred by a qualified taxpayer during the taxable year.

22 (b) For purposes of this section, the following apply:

23 (1) “Biodiesel fuel” means any motor fuel or mixture of motor
24 fuels that is derived wholly or partly from agricultural products,
25 vegetable oils, recycled greases, or animal fats, or the wastes of
26 those products or fats and is advertised, offered for sale, suitable
27 for use, or used as a motor fuel in an internal combustion engine.

28 (2) “Qualified costs” means the total amount paid or incurred
29 by the qualified taxpayer during the taxable year to acquire,
30 purchase, construct, renovate, or equip property, buildings,
31 structures, facilities, or related infrastructure for the manufacturing,
32 processing, production, delivery, or sale of biodiesel fuel.

33 (3) “Qualified taxpayer” means a person manufacturing,
34 processing, producing, delivering, or selling biodiesel fuel.

35 (c) In the case where the credit allowed by this section exceeds
36 the “net tax,” the excess may be carried over to reduce the “net
37 tax” in the following year, and succeeding years if necessary, until
38 the credit has been exhausted.

39 (d) In the case where property, buildings, structures, facilities,
40 or related infrastructure qualify as part of the taxpayer’s “qualified

1 costs” also qualify for a credit under any other section in this part,
2 the taxpayer shall make an election on its original return as to
3 which section applies to all costs allocable to that item. Any
4 election made under this section, and any specification contained
5 in that election, may not be revoked except with the consent of the
6 Franchise Tax Board.

7 (e) The Franchise Tax Board may prescribe any regulations
8 necessary to carry out the purposes of this section.

9 (f) This section shall remain in effect only until January 1, 2013,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2013, deletes or extends that date.

12 SEC. 4. Section 23643 is added to the Revenue and Taxation
13 Code, to read:

14 23643. (a) For each taxable year beginning on or after January
15 1, 2008, and before January 1, 2013, there shall be allowed as a
16 credit against the “tax,” as defined in Section 23036, an amount
17 equal to ___ percent of the qualified costs that are paid or incurred
18 by a qualified taxpayer during the taxable year.

19 (b) For purposes of this section, the following apply:

20 (1) “Biodiesel fuel” means any motor fuel or mixture of motor
21 fuels that is derived wholly or partly from agricultural products,
22 vegetable oils, recycled greases, or animal fats, or the wastes of
23 those products or fats and is advertised, offered for sale, suitable
24 for use, or used as a motor fuel in an internal combustion engine.

25 (2) “Qualified costs” means the total amount paid or incurred
26 by the qualified taxpayer during the taxable year to acquire,
27 purchase, construct, renovate, or equip property, buildings,
28 structures, facilities, or related infrastructure for the manufacturing,
29 processing, production, delivery, or sale of biodiesel fuel.

30 (3) “Qualified taxpayer” means a person manufacturing,
31 processing, producing, delivering, or selling biodiesel fuel.

32 (c) In the case where the credit allowed by this section exceeds
33 the “net tax,” the excess may be carried over to reduce the “tax”
34 in the following year, and succeeding years if necessary, until the
35 credit has been exhausted.

36 (d) In the case where property, buildings, structures, facilities,
37 or related infrastructure qualify as part of the taxpayer’s “qualified
38 costs” also qualify for a credit under any other section in this part,
39 the taxpayer shall make an election on its original return as to
40 which section applies to all costs allocable to that item. Any

1 election made under this section, and any specification contained
2 in that election, may not be revoked except with the consent of the
3 Franchise Tax Board.

4 (e) The Franchise Tax Board may prescribe any regulations
5 necessary to carry out the purposes of this section.

6 (f) This section shall remain in effect only until January 1, 2013,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2013, deletes or extends that date.

9 SEC. 5. Notwithstanding Section 2230 of the Revenue and
10 Taxation Code, no appropriation is made by this act and the state
11 shall not reimburse any local agency for any sales and use tax
12 revenues lost by it under this act.

13 SEC. 6. This act provides for a tax levy within the meaning of
14 Article IV of the Constitution and shall go into immediate effect.